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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,751	12/24/2003	George W. Jackson	12963-17	8936
1059	7590	05/16/2005	EXAMINER	
BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA			ADDIE, RAYMOND W	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 05/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/743,751

**Applicant(s)**

JACKSON, GEORGE W.

**Examiner**

Raymond W. Addie

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-8 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/23/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/25/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 8 are objected to because of the following informalities: The amendment to claim 1 now requires "the adjustable axial engagement mechanism being adjustable from proximate the inner end of the top member" is vague. Is the limitation intended to require --the...engagement mechanism is adjustable, by a user, from proximate the inner end of the top member--? The limitation is being examined as such.

Claim 8, Ins. 3-4, the word "and" in the phrase "the threaded rod and the thread engaging member and threaded rod are, and rotatable relative", confuses the interpretation of the intended limitation. Should the phrase be --the threaded rod, said thread engaging member and threaded rod are rotatable relative--?

Claim 8, ln. 4, the appears to be a phrase missing before the phrase "the threaded rod of the side member".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for

omitting essential structural cooperative relationships of elements, such omission

amounting to a gap between the necessary structural connections. See MPEP

§ 2172.01. The omitted structural cooperative relationships are: drawn to an upper

portion of the threaded rod extends vertically above the upper pivot joint. Is there any

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relevance to the threaded rod extending above the upper pivot joint? Or would adjustment of the adjustable axial engagement mechanism be performed similarly if the threaded rod did not extend above the pivot point, such as if the threaded rod was in the form of a hex head bolt?

The term "moves the side member relative to" in claim 11 is a relative term which renders the claim indefinite. The term "moves...relative to" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The cited limitation is vague because it does not recite in what manner the side member is moved. Does the side member elongate/retract or does the side member rotate about a vertical axis? What is the affect of the cited relative motion?

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamb # 2,414,538.

Lamb discloses a pair of scaffolding support brackets (4, 33) capable of use with bridges, comprising:

A triangular bracket assembly having an elongate top member (6, 33), an elongate diagonal member (9, 36) and an elongate side member (7, 35). Said side member (7) comprising at least one threaded bolt (23, 23').

An axial adjustment mechanism (28, 88) for adjusting the position along the length of the side member at which the at least one pivot joint engages the side member, the axial adjustment mechanism being adjustable by a user proximate the inner end of the top member.

Wherein said the bracket assembly includes upper and lower pivot joints (21, 26/44, 86), respectively, interconnecting said top member to said side member and said side member to said diagonal member.

Further wherein each of the upper and lower pivot joints (21, 26/44, 86) have pivot pins mounted about a generally horizontal axis in said top and diagonal members, such that the upper and lower pivot joints further include generally vertical apertures for receiving said side member. See Figs. 1, 6, 11.

In regards to Claims 4-6, 8 Lamb discloses the axial adjustment member (28) further comprises a thread engaging member (28) engaged with a threaded rod (29) of the side member (7), see Figs. 2, 19 such that said threaded rod (29) and thread engaging member (28) are rotatable relative to one another, the member (28) be pivoted at (27).

See Col. col. 4., col. 7, Ins. 14-17.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horen # 5,865,410.

Horen discloses a universal staging bracket capable of use as a bridge overhang bracket, comprising:

An elongate top member (22) having inner and outer ends.

An elongate diagonal member (40) having inner and outer ends, the outer end being pivot ably attached to the outer end of the top member (22).

Upper and lower pivot joints (10/70, 44 respectively), secured to the top and diagonal members respectively, adjacent the inner ends thereof.

An elongate side member (18) extending between and engaged with the upper and lower pivot points (24/76, 44).

At least one adjustable axial engagement mechanism (50/60) for adjusting the position and the length of the diagonal member.

Wherein the adjustable axial engagement mechanisms are adjustable, by a user proximate the inner end of the top member. See Fig. 1; Col. 2, ln. 40-col. 3, ln. 22.

What Horen does not disclose is locating the adjustable axial engagement mechanism upon the side member (18), which is of fixed length.

However, it would be obvious to one of ordinary skill in the art, that the flexural strength of a triangular bracket, is based in part, upon the length of the side member, which determines the length of and vertical position where, the diagonal member contacts a girder or other support, at element (20). Hence, it would have been obvious to one of ordinary skill in the art, to relocate the adjustable axial engagement mechanism (48, 64) to the side member (18), in order to adjust the length of the side member and the diagonal member, thereby customizing the load distribution between the top and diagonal members of the bracket assembly.

In regards to Claims 2, 3, 13, 14 Horen discloses the upper pivot pins (44, 10/70), which are mounted in the top and diagonal members (22, 40). Wherein the pivot pins pivotally mounted about a generally horizontal axis and have an aperture for receiving the side member and the diagonal member respectively. Said each of said pivot pins (44, 10/70) further comprise a generally vertical cross bore (defined by joint plates 78), through which the side member (18) extends there through See Figs. 1-3, 7; col.

***Allowable Subject Matter***

5. Claims 9, 10 objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11, 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Amendment***

6. Applicant's amendment to Claims 1-4, and introduction of New Claims 5-14 has necessitated a new search of the prior art, which produced the New Grounds of Rejection, cited above.

#### ***Response to Arguments***

7. Applicant's arguments filed 02/07/05 have been fully considered but they are not persuasive.

Applicant argues against the rejection of claim 1 as being obvious to the teachings of Ward by stating "the Office Action does not provide a prima facie case for modification of Horen".

However the Examiner does not concur.



Horen discloses the claimed invention except for the location of the axial adjustment member. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to relocate the axial adjustment member to the opposite end of the diagonal member; since it has been held that rearranging parts of an invention involves only routing skill in the art, *in re Japikse*, 86 USPQ 70.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pruett # 3,989,219 discloses an axial adjustment assembly for bridge deck support members. Eden # 4,348,002 discloses a hanger support for concrete overhang brackets.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas Will  
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RWA  
5/6/2005